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REPORT NO. 2014-03

TO: Robert S. LaSala, County Administrator

FROM: Hector Collazo, Jr., Inspector General/CAE
Division of Inspector General 

DIST: Ken Burke, CPA, Clerk of the Circuit Court and Comptroller
Honorable Chairman and Members of Board of County Commissioners
Jim L. Bennett, County Attorney
James W. Denhardt, City Attorney, City of Pinellas Park
Heather Robinson, Investigations Manager, Office of the Chief
Inspector General, Office of the Governor, Tallahassee, Florida

SUBJECT: Investigative Review of Reliable Septic & Sewer, Inc.
and M & D Grease Disposal, Inc.

DATE: January 22, 2014

The Division of Inspector General's Public Integrity Unit (PIU) received allegations of improper conduct by Pinellas County (respondent). We investigated 25 allegations related to a complaint filed with the Office of the Governor dated July 16, 2013 and forwarded to our office for investigation.

The Reliable Septic & Sewer, Inc. and M & D Grease Disposal, Inc. businesses (complainant), located in the unincorporated area of Pinellas County, generally alleged misconduct by the respondent. The complainant did provide documentation to assist with the investigation.

To determine whether the allegations were substantiated, we reviewed policies, procedures, emails, letters, memos, and investigative reports, and any other records deemed appropriate. We also conducted interviews of staff and other parties, as needed. Our investigation was performed according to the *Principles and Standards for*



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Offices of Inspector General and The Florida Inspectors General Standards Manual from The Commission for Florida Law Enforcement Accreditation.

The Division of Inspector General's investigation identified 25 allegations contained in the complaint and has determined that:

- 23 were Unfounded
- 2 were Unsubstantiated
- None were Substantiated

The complainant alleges the respondent:

1. *"Pinellas County Has Admitted The Mistakes They Have Made, But Refuses To Make Us Whole."* (Also, see Issue Nos. 3, 14, 15, 16, and 25 on this subject.)

UNFOUNDED: Our review found no evidence to support the allegation that Pinellas County (County) has admitted to mistakes made by or on behalf of the County as it pertains to the actions surrounding Reliable Septic and Sewer, Inc. (Reliable) or M & D Grease Disposal, Inc. (M&D). In addition, there was no indication of improper action on the part of the County or its staff. The County has complied with department procedures, State requirements, County Code, and the Florida Statutes. We did not find support that the County has a financial obligation or responsibility ("make us whole") for operating costs of Reliable and M&D.

2. *The County "Have Cost Us Substantial Amounts Of Money And Have Completely Ruined One Of Our Businesses, And That Costs Jobs."*

UNFOUNDED: There is no support that costs related to operating the Reliable and M&D businesses is a County issue or obligation. The complainant did not provide specific details pertaining to the "have cost us substantial amounts of money" or "have completely ruined one of our businesses" and how it falls within the responsibility of the County.

3. *"Pinellas County Attorneys And Administrators Admitted Wrong-Doing."* (See additional information in Issue No. 1. Also, see related Issue Nos. 14, 15, 16, and 25 on this subject.)

UNFOUNDED: Our review found no documentation that supports the admission of "wrong-doing" on the part of the County Attorney or the County Administrator.

4. *The County "Deleted Emails From Officials While Under Litigation."* (Also See Issue No. 18 on this subject.)

UNFOUNDED: The allegation that County Department employees are deleting emails related to Reliable and M&D to hide the information from the litigation process for the Reliable zoning hearing is not supported. These emails are public

records and are subject to the Florida Public Records Statutes and strictly adhered to by the County.

5. "Misuse of County Officials Power." (Also, see Issue Nos. 1, 12, and 13 relating to this subject.)

UNFOUNDED: Our review found no documentation that supports the allegation of misuse of County official powers.

6. "Fraudulent Official County Reports." (Also See Issue No. 17 relating to this subject.)

UNFOUNDED: No documentation was presented to support the allegation that the County was issuing fraudulent reports. County reports were issued in compliance with internal procedures.

7. "Omitted, White Out, Scratched Information On Official Complaints."

UNFOUNDED: The Environmental Complaint document is a work-paper used by the Code Enforcement Inspector to record notes while performing the site inspection. There were no white outs, misrepresentations, or omissions on the documents provided to the complainant as a public record request. The Final Notice (Pinellas County Code Enforcement Zoning Notice of Violation of Pinellas County Land Development Code) is the "official" County document sent to the owner of the property. Therefore, the allegation of providing falsified documents or withholding of information is not supported.

8. "Emails From County Commissioner To A Rival Company, Sharing Our Information." (Also, see Issue Nos. 9, 10, 11, and 20 relating to this subject.)

UNFOUNDED: The correspondence and documents contained in the emails with the Board of County Commissioners are subject to Florida Public Records Statutes and the information contained is not confidential. Therefore, complying with public records' requests that may have disclosed or shared information with a rival or any other requesting party is appropriate and the allegation of wrongdoing in those instances is not supported.

9. "Emails from County Commissioner to a private fog facility, showing the rate increase at the county facility and being directed to the price increase." (See additional information in Issue No. 8. Also, see related Issue Nos. 10, 11, and 20 relating to this subject.)

UNFOUNDED: The allegation of improper action on the part of the Board of County Commissioners related to the County Fats, Oil, and Grease (FOG) plant pricing and any relationship with M&D operational issues is not supported. There was no inappropriate pricing action taken by the County for the FOG plant's dumping fee for haulers.

10. "Emails Where The Same Company Received Commissioner's Help, Now Being Recommended For The Pinellas County FOG Plant." (Additional information for Issue Nos. 8 and 9. Also, See Issue Nos. 11 and 20 relating to this subject.)

UNFOUNDED: The allegation that the County Commissioner influenced the contract awarded to Grease Depot Inc. for operational maintenance and management of the County FOG plant is not supported. There was no documentation that the County Commissioners were supplying improper support to Grease Depot Inc.

11. Emails From Complainant "To One Commissioner Finding Its Way To Another Commissioner, Then To Complainant's Rival." (See additional information in Issue Nos. 8, 9, and 10. Also, see related Issue Nos. 11 and 20 relating to this subject.)

UNFOUNDED: The allegation that the County Commissioners improperly shared information is not supported. The correspondence and documents contained in the Board of County Commissioners' email are not confidential. They are public records and subject to the Florida Public Records Statutes.

12. "County Administrator Misuse Of Power Issuing A Non Court Ordered Cease And Desist Order And Utilizing Pinellas County Sheriffs Deputies To Perform the Act." (Also, See Issue Nos. 5 and 13 relating to this subject.)

UNFOUNDED: The allegation that the County Administrator misused his power to issue a Cease and Desist Order is not supported. The use of the Sheriff's Office to serve the Order was appropriate.

13. "Non Court Ordered Cease And Desist, To Eliminate Complainant As The Competition." (Also, See Issue Nos. 5 and 12 relating to this subject.)

UNFOUNDED: The allegation that the Cease and Desist Order was issued to remove M&D from competition with the County FOG plant is not supported. The plant is a County Government service for community benefit and was not established to be a profitable revenue generating facility.

14. Pinellas County Official Advised That The Permit Was To Process FOG And Septic Waste And Nothing More Was Needed, Which Was Stated Under Oath In Court Proceedings. (See additional information in Issue Nos. 1 and 3. Also, see related Issue Nos. 15, 16, and 25 relating to this subject.)

UNFOUNDED: The Pinellas County Department employee did not advise the complainant that the Industrial Wastewater Discharge Permit is to process FOG and septic waste in Pinellas County, but to discharge industrial wastewater. The allegation that a County employee advised Reliable that the permit satisfied all requirements to process FOG and Septic Waste is not supported.

- 15. *"The Permit States We Are In Compliance With All Codes, Federal, And State Laws. This Would Cover Zoning."* (See additional information in Issue Nos. 1, 3, and 14. Also, see related Issue Nos. 16 and 25 relating to this subject.)**

UNFOUNDED: The Industrial Wastewater Discharge Permit does not state that Reliable and M&D are in compliance with all Codes, Federal, and State laws. The allegation that the Permit indicated Reliable and M&D were "in compliance" is not supported.

- 16. *Commissioner Stated That "The County Made Mistakes And Was Tired Of The Inner Departments Not Talking With Each Other."* (See additional information in Issue Nos. 1, 3, 14, and 15. Also, see additional related Issue No. 25 relating to this subject.)**

UNSUBSTANTIATED: Our review found no documentation stating that the Commissioner had any issues with the County Departments' communication with reference to the Reliable issues. In addition, there were no documented statements made inferring that the County made mistakes in the handling of Reliable issues. With the allegation being based on a phone conversation with a Commissioner in April 2012, there is no support for the statement.

- 17. *Pinellas County Inspector Fabricated Complaints Regarding Overflows Into The Storm Water Drainage Ditches Located In The Front Of Property, Leaking Tanks, Etc.***

UNFOUNDED: The concerns of the Air Quality inspectors were justified and supported by adequate documentation. The referring of the possible spill issues to the proper County department and/or State agency is a requirement of County policy.

- 18. *County Employee Sends Emails To DEI Official With A Statement "Delete After Reading," Occurred While Pinellas County Was Suing Complainant.* (See Issue Nos. 4 and 19 on this subject.)**

UNFOUNDED: The information contained in the email is available to the public and all parties of the zoning hearing for Reliable. Deleting the email does not limit access or hide the information. The email is a public record and subject to the Florida Public Records Statutes and strictly adhered to by the County.

- 19. *Pinellas County Officials Emailed Back And Forth About Complainant's Competition For The Pinellas County FOG Facility. One Email Stated, "Not For Very Much Longer." Pinellas County Officials Were Stating They Were Going To Close Complainant Down.***

UNFOUNDED: The emails between two staff members of the Solid Waste Outreach Program were generated by an article published and distributed by WFLA-TV. Neither of the employees involved in the communications have any involvement with the Reliable and/or M&D operation issues surrounding compliance to County Code.

The email supplied is not a statement from "Pinellas County Officials;" it does not state, "They were going to close us down," and it does not state an attempt to "eliminate" Pinellas County competition. The allegation of "officials stating they were going to close the complainant down" is not supported.

20. Pinellas County Official Has Continued To Supply Numerous People With Complainant's Information Without Going Through Public Records. (See additional information for Issue Nos. 8, 9, 10, and 11 relating to this subject.)

UNFOUNDED: The allegation that the County improperly shared information is not supported. The information supplied was a result of a public records' request. Complying with public records' request, per Florida Statutes, that may have disclosed or shared Reliable information does not limit the County, as they must comply with the public records' request.

21. In May 2013, A Commissioner Stated He Had The Power To Take The Complainant's Permit.

UNFOUNDED: The Board of County Commissioners' minutes and video of their meeting show that the statement was not made by the Commissioner. The allegation of the statement is not supported.

22. "While Talking In Front Of The BCC, I Was Heckled By Commissioner."

UNFOUNDED: The Board of County Commissioners' minutes and the video of the meeting show that there was a strong exchange between a Commissioner and the complainant in the Board of County Commissioners' meeting regarding the Reliable issues. The exchange was not "heckling," but rather a disagreement in a public meeting. The allegation of the "heckling" is not supported.

23. Pinellas County Officials Reported To The City Of Pinellas Park Inspector That There Was A Large Amount Of Grease Inside Of The Lift Station Connected To The Reliable Facility. The Inspection Did Not Find Any Problems. (See Issue No. 24 relating to this subject.)

UNSUBSTANTIATED: There is insufficient documentation to determine where the grease problems occurred, but the fact that the meter was not functioning properly was confirmed. The allegation that the County incorrectly reported a grease problem to the City of Pinellas Park is unsubstantiated.

24. Pinellas Park Officials Were Tired Of Being Used As A "Pawn" To Try To Close Reliable Down. (See Issue No. 23 relating to this subject.)

UNFOUNDED: The City of Pinellas Park management denied the statement alleged by the complainant was made by their inspectors and there are no problems with the County's handling of the Reliable issues. There is no support for the allegation that the City of Pinellas Park has issues with the County process.

25.A Meeting In July 2013 With Reliable, The Pinellas County Attorney And The County Administrator.

UNFOUNDED: The allegation that the County Attorney or the County Administrator admitted to any mistakes is not supported.

The Analysis of the Allegations Section of this memo contains additional details of our evaluation of each allegation.

We want to thank County management and their staff, the County Attorney's Office, and the City of Pinellas Park for their assistance and cooperation during this investigation.

ANALYSIS OF THE ALLEGATIONS

1. “Pinellas County Has Admitted The Mistakes They Have Made, But Refuses To Make Us Whole.” (Also, see Issue Nos. 3, 14, 15, 16, and 25 on this subject.)

UNFOUNDED: Our review and analysis found:

- No evidence to support the allegation that Pinellas County (County) has admitted to mistakes made by or on behalf of the County as it pertains to the actions surrounding Reliable Septic and Sewer, Inc. (Reliable) or M & D Grease Disposal, Inc. (M&D).
- There was no indication of improper action on the part of the County or its staff as it pertains to Reliable and/or M&D.
- The County complied with department procedures, State requirements, County Code, and the Florida Statutes.
- No evidence was found to support the allegation that the County has a financial obligation or responsibility (“make us whole”) to Reliable and/or M&D.

There has been considerable open communication between citizens, Reliable, M&D, individual County Commissioners, County management and staff, City of Pinellas Park Officials, State of Florida Department of Environmental Protection, Board of County Commissioners, and the media pertaining to the operations of Reliable and M&D. The various issues pertaining to the operations of Reliable and M&D have been presented and discussed in various Board of County Commissioners’ public meetings between October 2012 and July 2013. The actions taken by the County Attorney, County Administrator, and County management have been at the direction and recommendation of the Board of County Commissioners.

The two examples provided by the complainant are neither an admission of mistakes nor statements confirming incorrect processes were performed by or on behalf of the County.

- The County’s Department of Environment & Infrastructure does issue the Industrial Wastewater Discharge Permit. However, no part of the issuance process creates an obligation on their part to ensure that Reliable, M&D, or any other business that is issued this permit complies with site zoning requirements.
- The opinions expressed by the Commissioners during Board of County Commissioners’ meetings may involve Reliable, M&D, or any other business, but those opinions are not admissions of mistakes, acceptances of liability, or to be construed as statements of a mistake. The opinion expressed by the Commissioner pertaining to culpability during the January 29, 2013 Board meeting related to the vote to approve the zoning change. The excerpt from the session minutes of the Commissioner comments are as follows:

"He believes there is culpability on both sides; that his goal is to reduce the odor impact on the community; and that the permit and other documentation issued by the County are sufficient for him to support the motion as an imperfect solution."

The complainant did not supply legal requirements/justification to substantiate that the County has an obligation of financial responsibility to Reliable and M&D businesses.

2. The County "Have Cost Us Substantial Amounts Of Money And Have Completely Ruined One Of Our Businesses, And That Costs Jobs."

UNFOUNDED: We did not find support that the County has a financial obligation for the development of a business in Pinellas County. The complainant did not provide specific details pertaining to the "cost us substantial amounts of money," "have completely ruined one of our businesses," or explains how it falls within the financial responsibility of the County.

The County records do show several fines assessed for the businesses not in compliance with legal requirements. The impact on the businesses for fines assessed is a result of operational performance of the businesses. The County does not have, and did not require, the financial records for the Reliable or M&D businesses. The information received from the complainant does not support the allegation.

3. "Pinellas County Attorneys And Administrators Admitted Wrong-Doing." (See additional information in Issue No. 1. Also, see related Issue Nos. 14, 15, 16, and 25 relating to this subject.)

UNFOUNDED: Our review found no documentation of admission of "wrong-doing" on the part of the County Attorney or the County Administrator. The complainant did not supply support for the allegations.

As stated in Issue No. 1, our review of the emails, letters, memos and investigation reports, and in related department files did not find documentation of any admissions of mistakes on the part of the County. In addition, the analysis found compliance with department internal procedures, State requirements, County Code, and Florida Statutes. No improper action on the part of the County and staff were noted.

4. The County "Deleted Emails From Officials While Under Litigation." (See additional information in Issue No. 18 on this subject.)

UNFOUNDED: The statement in the allegation was in the email. However, the conclusion by the complainant that County employees are deleting emails to hide information during the litigation process is not supported.

County employees assigned email accounts have the authority and the ability to delete emails from their individual directory. The deletion of an email from the employee's individual email file does not delete the record and content of the email from the County public records' email servers. The County email policy recommends the deletion of emails from individual directories after reading to reduce the server space need for retained emails in the employee's individual directory file.

The complainant provided a portion of an email from the Division Manager of Air Quality dated October 5, 2012 [We obtained the complete email from Business Technology Services (BTS)]. In the context of the email, it stated,

"FYI... and you can delete after reading."

The email was sent to five members of the County Department management that were involved with Reliable issues. The email was in reference to an article entitled,

"County takes stinky problem to court." The information stated, "The Pinellas County Commission unanimously approves a request Oct. 2 from County Attorney Jim Bennett to initiate litigation against the owners of the FOG plant, Reliable Septic & Sewer, Inc. and M & D Grease Disposal, Inc."

The email referred to an article available to the public. Neither the sending of nor the deleting of the email withholds any information during the litigation process. The email served only to reference an article written, published, and distributed by a major news source within the area and did not provide any personal comment or elaboration of details contained within the story by the email sender. The email is a public record and subject to the Florida Public Records Statutes and strictly adhered to by the County.

5. "Misuse of County Officials Power." (See additional information in Issue Nos. 1, 12, and 13 relating to this subject.)

UNFOUNDED: Our review noted no "misuse of County officials' power." In fact, the County used its resources to help assist bringing the businesses in compliance with the County Code. The County Officials' use of resources is within the scope of regulatory authority and appropriate for the continued state of non-compliance as found with these two businesses.

The complainant provided two examples of the misuse of County officials' power.

1. The service of the Cease and Desist Order on September 9, 2012 and what the County Department employee called the Order.

There is no documentation that can be used to confirm what the County Department employee called the Cease and Desist Order at the site service. The Sheriff's Report is silent in this area. The document served was an Order signed by the County Administrator, not the Court. In addition, a copy of the Order was provided to the complainant's attorney of record on August 27, 2012. There was

no pretense that this Order was issued by the Court. The complainant did not provide information stating grounds for improper service of the Order. This example is not a misuse of County official power.

2. Air Quality Inspectors soliciting odor complaints from citizens.

As part of the standard procedures for conducting an inspection of an odor complaint, the inspector will interview any bystanders (citizens) around the site where the odor is coming from. The inspector will offer the citizen the option to fill out a complaint form on the issue. This allegation is not an example of misuse of County official power, but an example of following proper procedures.

6. "Fraudulent Official County Reports." (See additional information in Issue No. 17 relating to this subject.)

UNFOUNDED: No documentation was found to support the allegation that the County was issuing fraudulent reports. County reports were issued in compliance with internal procedures. The example supplied by the complainant also did not support the allegation. Our review of the relevant investigation reports, testing reports, and other reports issued by the County Department regarding Reliable found no "fraudulent" information.

While there are some inconsistencies for minor information, they do not rise to the definition of fraudulent as the issue of the PVC piping (as stated below); had no bearing on the inspection based on odor complaints. The inconsistencies did not meet the condition of deceiving someone for the purpose of getting something valuable or receiving benefit for the action.

The complaint stated that in the Air Quality reports, there have been numerous times when there are "outright lies." The complainant supplied one Air Quality investigation report dated February 8, 2012; the inspector stated that there was PVC present going into the building, but was removed prior to the inspection; there was no date given for removal by the complainant.

Our analysis found the PVC statement was present in the investigation report in three sections of the report.

- In the source operation at the time of the inspection, a section of the report stated that a Reliable tanker truck was offloading Fats, Oil & Grease (FOG) via a PVC pipe that lead into the building.
- In the "Describe Process Operation" of the Respondent's section of the report, it stated that the facility is currently modifying their process operations. Also, it stated there was off-loading via a PVC pipe that leads into one of two 8000 gallon tanks inside the building.
- In the "Problem and Correction Action Summary" section of the report, it states the Reliable tanker truck was parked in the offloading area to the PVC pipe that leads into the building. I (inspector) noticed one end of a flexible hose was

attached to the delivery tanker and the other end was laying on the ground not attached to anything.

A review of the pictures attached to the investigation does confirm that the PVC piping had been removed from the building. The statement that the truck was offloading cannot be confirmed since the flexible hose was not attached to the truck, but the truck was in the offloading space. The other items stated appear accurate. In an interview with the inspector, it may have been an oversight that the PVC pipes had been removed. At that time, many changes were being made by Reliable at the site, but the inspector or the County did not have any documentation from Reliable of the changes made to the operation process at the site.

The inaccurate reporting of the presence of the PVC piping in the investigation form pertains only to the current operations at the site. The PVC presence or non-presence was not related to the inspector's primary purpose of the investigation and confirmation of an odor being present.

7. "Omitted, White Out, Scratched Information On Official Complaints."

UNFOUNDED: There was no white-out (white correction fluid or similar product) used on the Environmental Complaint document and the form is not the official complaint form of the County.

In a meeting with the complainant on September 10, 2013, we were provided copies of three "Environmental Complaint" forms dated March 30, 2012. The documents were provided to the complainant per a public records' request. The complainant stated there was "white-out" used on the documents. We retrieved the original three documents from the Code Enforcement files. The reports in the file contained no areas where "white-out" was used. The documents in the file were exactly the same as the copies supplied the complainant under the public records' request.

The three documents are investigative work-papers used by the Code Enforcement Inspector to make notes when the inspection of the site is being performed. The documents are work-papers (work-papers are papers or notes showing the intermediate stages of information collected for a project) and not the "official" complaint form that is sent to the property owner. The information on the work-paper is transferred to the Final Notice (Pinellas County Code Enforcement Zoning Notice of Violation of Pinellas County Land Development Code). For each one of the complaints investigated, the Final Notice was sent to the owner of the property. The procedure followed for the three complaints were in compliance with the County Department internal procedures. Work-papers are not official County documents for the results of the inspection; the allegation of providing falsified documents or withholding of information is not supported.

8. “Emails From County Commissioner To A Rival Company, Sharing Our Information.” (See additional information in Issue Nos. 9, 10, 11, and 20 relating to this subject.)

UNFOUNDED: The correspondence and documents contained in the emails with the Board of County Commissioners are public records and the information contained is not confidential.

Our review found emails between the Board of County Commissioners, Pinellas County citizens, and the complainant. The Board of County Commissioners is a policy board and there is no restriction on Commissioners corresponding with the public. All emails to and from the Board of County Commissioners, as well as any attachments, are not classified as confidential information and are subject to the Florida Public Record Statutes.

The complainant, in support of the allegation, supplied a list of 12 emails that were stated to have been sent by a Commissioner to the same citizen between May and October 2012. We obtained copies of the complete emails from BTS and analyzed the information. The emails were sent from a Commissioner's Administrative Assistant on his behalf. The following is the general breakdown of the documents sent:

- Five emails from Reliable sent to the County
- Six complaints from residents about Reliable
- Request from a citizen for the date of the next Board of County Commissioners' meeting

There was no confidential information contained in the documents. The documents were supplied based on a public records' request. The records indicate the request was handled and processed appropriately under the County's public records' request procedures.

9. “Emails from County Commissioner to a private fog facility, showing the rate increase at the county facility and being directed to the price increase.” (See additional information in Issue No. 8. Also, see Issue Nos. 10, 11, and 20 relating to this subject.)

UNFOUNDED: The allegation of improper action on the part of the Board of County Commissioners related to the County FOG plant pricing and any relationship with M&D operational issues is not supported.

The complainant did supply one email from the Manager of the South Cross Water Treatment Plant dated June 9, 2009. No County Commissioner emails related to the allegation were provided. The subject of the information was a pricing survey for other regional counties' FOG plants. Our analysis found no connection with the pricing process of the County FOG plant and M&D. The price change for the County FOG plant took place in October 2009, prior to the start-up of the operations of M&D.

The County FOG plant-pricing issue was raised by Grease Depot Inc., stating that the County set the price (9 cents per gallon) for haulers was not public market determined. The cost of operation was being supplemented by Utility customers' fees for sewer. The Utilities Department performed an analysis that was released in June 2008 showing the County FOG plant, as a stand-alone operation, had a loss in Fiscal Year 2007 of \$255,000. Based on the analysis, the per-gallon pricing was increased to 12 cents per gallon as part of the annual Utility rate approval process at the September 29, 2009 Board meeting.

There is no support that there was improper action or relationship on the part of the Board of County Commissioners or the County that triggered any inappropriate pricing action for the County FOG plant.

10. "Emails Where The Same Company Received Commissioner's Help, Now Being Recommended For The Pinellas County FOG Plant." (See additional information in Issue Nos. 8 and 9. Also, see Issue Nos. 11 and 20 relating to this subject.)

UNFOUNDED: The allegation that the County Commissioner influenced the contract awarded to Grease Depot Inc. for operational maintenance and management of the County FOG plant is not supported.

As addressed in Issue No. 8, the complainant provided 12 emails from a Commissioner's Administrative Assistant. The emails were sent to a Vice President of Grease Depot Inc. The documentation sent was in response to a public records' request by Grease Depot Inc. for information.

The service contract for the operational maintenance and management of the County FOG plant followed the County's competitive bid process. The evaluation of the three bids noted that Grease Depot Inc. was the highest rated responder for the contract. The County Purchasing Committee (County Employees) recommended the award of the service contract to Grease Depot Inc. The Board of County Commissioners approved the award of the contract based on the recommendations provided by the County Purchasing Committee.

11. Emails From Complainant "To One Commissioner Finding Its Way To Another Commissioner, Then To Complainant's Rival." (See additional information in Issue Nos. 8, 9, and 10. Also, see Issue Nos. 11 and 20 relating to this subject.)

UNFOUNDED: The allegation that the County Commissioner's office improperly shared information is not supported. The correspondence and documents contained in the emails with the Board of County Commissioners are public record and the content is subject to the Florida Public Records Statutes. Complying with the public records' request that may have disclosed or shared information with a rival or any other requesting party is appropriate.

The complainant stated the email dated May 5, 2012 was sent to an officer of one of the Reliable competitors by one Commissioner with the attachment (an email sent by the complainant to a second Commissioner).

Our review found an email sent by the Commissioner's Administrative Assistant on May 3, 2012 (no email dated May 5, 2012 was found by BTS) that had an attachment of an email from the complainant that was sent to a second Commissioner. The request for the document was a properly processed public records' request from a citizen. There are no restrictions that limit the ability of Board of County Commissioners from exchanging information that is considered a public record.

12. "County Administrator Misuse Of Power Issuing A Non Court Ordered Cease And Desist Order And Utilizing Pinellas County Sheriffs Deputies To Perform the Act". (See additional information in Issue Nos. 5 and 13 relating to this subject.)

UNFOUNDED: The County Administrator has the authority to issue a Cease and Desist Order for the enforcement of the County zoning code.

The Cease and Desist Order is issued when previous notifications of violations are unresolved. The Cease and Desist Order is signed and issued by the County Administrator based on County Code 138-51, which gives the County Administrator the authority to enforce zoning. The enforcement of the Cease and Desist Order was approved by the Board of County Commissioners on October 2, 2012 (Approval to Litigate for Site Plan and Zoning).

The utilization of the Sheriff's Office to assist with the service of the Cease and Desist Order was justified based on the documented threatening and aggressive behaviors exhibited during previous official visits from Pinellas County and other regulatory agency personnel at the Reliable/M&D site.

13. "Non Court Ordered Cease And Desist, To Eliminate Complainant As The Competition." (See additional information in Issue Nos. 5 and 12 relating to this subject.)

UNFOUNDED: The allegation that the Cease and Desist Order was issued to remove M&D from competition with the County FOG plant is not supported.

The Cease and Desist Order was issued by the County Administrator to Reliable and M&D based on continued non-compliance with Pinellas County Codes (PCC) related to zoning.

- PCC 138-151: Prior to use of land or structure or expansion of the use, zoning clearance must be obtained.

- PCC 138: Failure to obtain zoning clearance prior to beginning M&D operations is a violation of PCC.
- PCC 138-1: M&D was to function as a FOG plant. FOG plants are designated as solid waste management facilities.
- PCC 138-832 and 138-857(17): Prohibits the operations of a solid waste facility in a C-2 zoned district.
- Based on recent inspections of the property, Reliable is in violation of five other PCCs.

The County FOG plant is not in competition with M&D FOG operations, but rather is considered a utility service provided as a service to the community. M&D had not yet begun their FOG operations when Pinellas County began their FOG processing operations. The County FOG plant was established in 2002 because the McKay Creek water treatment plant could not handle the grease collection volume and the water treatment plant was scheduled to be deactivated. The objective of the new County FOG plant was to comply with the State fat, grease, oil regulatory requirements and give the Pinellas haulers a place to unload the grease collected from their customers. As many other services provided by Pinellas County Government, this service was solely established to adhere to State regulations and to provide the community a benefit. The FOG plant was not established as a profitable revenue generating facility.

14. Pinellas County Official Advised That The Permit Was To Process FOG And Septic Waste And Nothing More Was Needed, Which Was Stated Under Oath In Court Proceedings. *(See additional information in Issue Nos. 1 and 3. Also, see related Issue Nos. 15, 16, and 25 relating to this subject.)*

UNFOUNDED: The zoning hearing transcript did not contain the statements as the complainant's letter stated. The allegation that a County employee advised Reliable that the permit satisfied all requirements to process FOG and Septic Waste is not supported.

Our review found no documentation stating that, "The Permit was for processing FOG and septic waste," nor that "nothing more was needed" for the M&D business regulation requirements. There is no documentation in the County files that indicated the Complainant sought an expert opinion on what other legal requirements had to be met before M&D operations could begin. The County Department, for which the employee worked, holds the responsibility to ensure compliance for the "Permit" that allows the business to discharge industrial wastewater into the sewage system. The role of the employees within this department is to complete the "industrial wastewater permitting" function. These employees are neither "experts" in the establishing of a private FOG business nor are they qualified to provide a legal opinion on other needs or requirements pertaining to the running of a private FOG business.

The County employee stated in the Zoning hearing that he did not inform Reliable that the issuance of the permit "satisfied all requirements for the Pinellas County Land Development Regulation." It was confirmed that he told the complainant that he was,

“good and ready to go and could begin discharging immediately” (industrial wastewater into the City of Pinellas Park sewer).

The Industrial Wastewater Discharge Permit, Section “A”, Standard Condition No. 18, Property Rights, states:

“The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privilege, nor does it authorize any invasion of personal rights, nor any infringement of Federal, State or local laws or regulation.”

The complainant appears to have assumed that the Permit covered all of their legal requirements to operate a FOG plant in Pinellas County. The Permit provided to the complainant grants permission to discharge the industrial wastewater into the City of Pinellas Park (City) sewer. The complainant considered the issuance of the Industrial Wastewater Discharge Permit as an approval to operate a FOG plant in the Reliable facility.

15. “The Permit States We Are In Compliance With All Codes, Federal, And State Laws. This Would Cover Zoning”. (See additional information in Issue Nos. 1, 3, and 14. Also, see related Issue Nos. 16 and 25 relating to this subject.)

UNFOUNDED: The Industrial Wastewater Discharge Permit does not state that Reliable and M&D are in compliance with all Codes, Federal, and State laws. Therefore, the allegation that the Permit indicated Reliable/M&D were “in compliance” is not supported.

On the face of the Industrial Wastewater Discharge Permit, it states that the Permit is:

“In accordance with all the terms and conditions of the Pinellas County Code and any applicable provisions of Federal or State law or regulation.”

This means the Permit was issued in compliance with Pinellas County Code, meaning that Pinellas County Code requires that the Permit be issued in order to discharge industrial wastewater; rather than meaning that Reliable and M&D are in compliance with all Codes, Federal, and State laws. This is an incorrect interpretation by the complainant. The misinterpretation of the information on the part of Reliable/M&D may have lead to the assumption as discussed in Issue No. 14.

16. Commissioner Stated That “The County Made Mistakes And Was Tired Of The Inner Departments Not Talking With Each Other.” (See additional information in Issue Nos. 1, 3, 14, and 15. Also, see related Issue No. 25 relating to this subject.)

UNSUBSTANTIATED: Our review found no documentation stating that any of the Commissioners had any issues with the County Departments’ communication pertaining to the Reliable issues. In addition, there was no documentation showing that the County admitted to having made mistakes in the handling of Reliable issues. The allegation that

the Commissioner stated that the County had made mistakes in the handling of Reliable/M&D issues is not supported.

The complainant stated that a Commissioner, during a phone conversation (last week of April 2012), stated: "The county made mistakes and was tired of the inner departments not talking with each other." A commissioner is a policy-maker and does not manage the day-to-day operations of County departments; this is the responsibility of the County Administrator. There was no information in the County files indicating the Commissioner interfaced with County Departments or the County Administrator that would support the statement. An undocumented phone conversation does not supply confirmation of the statement.

17. Pinellas County Inspector Fabricated Complaints Regarding Overflows Into The Storm Water Drainage Ditches Located In The Front Of Property, Leaking Tanks, Etc.

UNFOUNDED: Air Quality inspectors responded to citizen complaints. During these inspections, there were identified spillage concerns. The inspector referred the spillage concerns to the appropriate County Department and, when necessary, to the Florida Department of Environmental Protection for follow-up. The referring of these concerns were not the only complaints received about the Reliable and M&D operations. There were additional citizen complaints received pertaining to concerns about spillage at the site. Based on the documentation provided, the allegation of fabricated complaints is not supported.

Our review of complaints between March 2012 and September 2012 noted 10 spill instances that may have occurred. A recently reported potential spillage complaint occurred February 2013; the reported issues were:

- Respondent was washing out the warehouse floor into the area outside the building.
- Spraying Chlorine and Odoban mix for puddles on site.
- Solids were observed spilling on the floor inside of the building and covered with cat litter in the area between the dump trailer and the western facility bay door.
- Noted brown spillage on the concrete floor.
- Puddles at entrance of the site.
- Underground tanks with liquid on the ground.
- Liquid run-off trail along wooden fence of south side of the building.
- Spillage under the caustic soda tank inside of the building.
- Spillage under large truck inside of the building.
- Tanks (3) free standing outside showing possible leakage.
- Spillage on ground outside the building.

18. County Employee Sends Emails To DEI Official With A Statement "Delete After Reading," Occurred While Pinellas County Was Suing Complainant. (See related Issue Nos. 4 and 19 related to this subject.)

UNFOUNDED: The information contained in the email is available to the public and all parties of the zoning hearing for Reliable. Deleting the email does not limit access to the email and/or the information.

The complainant provided a portion of the email to support this allegation (we obtained the complete email from BTS). The email was from the Division Manager of Air Quality dated October 5, 2012. In the body of the email, it did state, "FYI... and you can delete after reading." The email was sent to five members of County Department management that were involved with the Reliable issues. The context of the email is a relevant factor in analyzing the allegation. The email was in reference to a news article titled, "County Takes Stinky Problem To Court."

"The Pinellas County Commission unanimously approves a request Oct. 2 from County Attorney Jim Bennett to initiate litigation against the owners of the FOG plant, Reliable Septic & Sewer, Inc. and M & D Grease Disposal, Inc."

Our review and analysis of the County Reliable department files found no other emails from the Division Manager of Air Quality with instructions to delete.

All County employees assigned email accounts have the authority and the ability to delete emails from their individual directory. The deletion of an email from the employee's individual email file does not delete the record of the email from the County public record email servers. The County's email policy recommends the deletion of emails from individual directories after reading to reduce the server space needed for retained emails in the employee's individual directory file. The referenced article was written, published, and distributed by a major news source within the area. The Board of County Commissioners' meeting is publicly available on the Pinellas County website. Deleting the email does not limit or hide the information contained and would not impact the pending zoning hearing process. The email is a public record and subject to the Florida Public Records Statutes and strictly adhered to by the County.

19. Pinellas County Officials Emailed Back And Forth About Complainant's Competition For The Pinellas County FOG Facility. One Email Stated, "Not For Very Much Longer." Pinellas County Officials Were Stating They Were Going To Close Complainant Down.

UNFOUNDED: The existence of the email was confirmed. The email supplied is not a statement from "Pinellas County Officials;" it does not state, "they were going to close us down," and does not state an attempt to "eliminate Pinellas County competition."

The complainant provided a portion of the email dated October 4, 2012 to support his allegation (we obtained the complete email from BTS). The allegation stated there were emails going back and forth by County Officials regarding Reliable being in competition with the County FOG plant. The emails between the two County Department staff members were prompted by an article in the County Daily Clips Report of October 4, 2012. The article was a WFLA-TV (Channel 8) news clip: *Neighbors complaint about septic company – Neighbors near a Pinellas Park grease disposal and septic company say the stench is so bad they cannot be outside for long.*

As a “forwarded” email of the original Clips email, one staff member asked a question. See FOG plant story, “Is that the plant that is competition for our facility?” The second staff member replied, “Doesn’t look like for much longer.” This was the extent of the email conversation between the two employees.

The employees work in the Solid Waste Landfill and the Power Plant Outreach Program. The employees work and interact with the public frequently and are provided the daily “Clips” report (media related articles about Pinellas County Operations and/or concerns) for informational purposes. The two staff members have no operational responsibility with the County Departments that interact with the Reliable and/or M&D operational and/or compliance issues. The two statements in the emails were directly attributed to the article and not due to any involvement with the operational responsibilities in the County that deal with any of the Reliable and/or M&D issues.

20. Pinellas County Official Has Continued To Supply Numerous People With Complainant’s Information Without Going Through Public Records. (See additional information in Issue Nos. 8, 9, 10, and 11 relating to this subject.)

UNFOUNDED: The information supplied by the Pinellas County Official was due to a public records’ request. Complying with the procedures and policies for public records’ requests that may disclose or share information with a competitor or any other citizen is appropriate.

The allegation states, “numerous people,” but the complainant specifically addressed the information exchange between the Division Manager of Air Quality and one citizen. We requested BTS provide us the emails of the Division Manager of Air Quality related to conversations between these two parties from August 1, 2010 to October 1, 2013.

We reviewed the emails from August 2012 to May 2013 (supplied by BTS) and determined that the documents supplied by the Division Manager of Air Quality were the results of public records’ requests. County policy gives the Division Manager the authority to send the requested records, because he is the Division Manager of Air Quality and because he had the records specified in the public records’ request. The email contained:

- Copies of complaints received by a second Pinellas County citizen from businesses in the area of the Reliable site, and they were sent to Air Quality.

- Questions were asked by the Pinellas County citizen on public record information in the attachments and answered by the Division Manager.

None of the information was restricted and is subject to the provisions of the Florida Public Records Statutes.

21. In May 2013, A Commissioner Stated He Had The Power To Take The Complainant's Permit.

UNFOUNDED: The Board of County Commissioners' meeting minutes and video show that the statement in the allegation was not made by the Commissioner. The allegation of the statement being made by the Commissioner is not supported.

We reviewed the minutes and the video of the May 21, 2013 Board of County Commissioners' meeting. The Commissioner stated that the Board has an obligation to the citizens to resolve the odor control issue; that it needs to put some "meat" in its code to ensure compliance; and that he would be open to discussing an ordinance that would use the power of the Board to shut the non-compliant businesses down. While the current agenda item was related to the continuing Reliable and M&D issues, the statements pertained to future instances where tighter restrictions should be considered for similar situations. There was no direct statement that the Board was looking for ways to shut down Reliable and/or M&D specifically. There was no reference made regarding the Industrial Wastewater Discharge Permit, but there were specifically related references to finding better measures to "ensure compliance" or provide alternative resolution methods.

The Board of County Commissioners is a policy making Board and has the authority to direct the County Administrator to pursue action against Reliable and/or M&D for non-compliance with the County Codes, which could result in a stoppage of operations.

22. "While Talking In Front Of The BCC, I Was Heckled By Commissioner."

UNFOUNDED: The exchange between a Commissioner and the complainant in the Board of County Commissioners' meeting about the Reliable issues was not "heckling," but rather a disagreement in a public meeting. The allegation of the "heckling" is not supported.

We listened to the video of the June 18, 2013 Board of County Commissioners' meeting. There was a strong exchange between a Commissioner and the complainant about the ongoing Reliable and/or M&D issues. This is a disagreement at a public meeting where it is not uncommon for speakers to have differing views, opinions, and even possible disagreements as a normal part of the Board of County Commissioners' meeting process.

The Board meetings are held open to the public, as the public is an integral part of the democratic process of Board meetings. It is essential that debates and challenges are made to ensure that all ideas and opinions are heard.

To clarify, a heckler is a person who harasses and continually interrupts a speaker or performer by shouting annoying or rude comments. While the exchange may have been a strong debate, that does not rise to the definition of "heckling."

23. Pinellas County Officials Reported To The City Of Pinellas Park Inspector That There Was A Large Amount Of Grease Inside Of The Lift Station Connected To The Reliable Facility. The Inspection Did Not Find Any Problems. (See additional information in related Issue No. 24 relating to this subject.)

UNSUBSTANTIATED: There is insufficient documentation to determine what was reported to the City of Pinellas Park by the County about where or how the grease problems occurred at the City of Pinellas Park Lift Station.

Our analysis did determine there was a problem with the Reliable flow meter. There is insufficient documentation to determine what was reported to the City of Pinellas Park (City) by the County and the findings after the inspection by the City.

County documentation shows there was an ongoing problem with the Reliable flow meter between February and July 2013. The City was informed of the problem, but the cause and corrective action was slow. The flow meter is paid for by Reliable, but must be installed by the City. The County's involvement pertains to the Reliable flow meter delivering accurate information for the purposes of billing and testing requirements under the Industrial Wastewater Discharge Permit. There was no documentation within the department files referring to a report of grease inside of the lift station connection by the County for that time frame. The County's flow meter problem log does state that on April 22, 2013 the City cleaned the flow meter and found clumps of goop present.

Violation at the City of Pinellas Park Lift Station was documented. On April 4, 2012, the City management reported that the lift station located directly downstream of M&D received untreated grease on two occasions, April 6, 2012 and April 12, 2012. The Pinellas County Industrial Pretreatment Program issued a notice of violation with a fine of \$2,500. The City also invoiced M&D for a fine of \$2,455.36.

Our review confirmed that there was a problem with the flow meter that had to be corrected by the City with Reliable responsible for the cost of the new flow meter. The new flow meter was installed in July 2013.

There is insufficient documentation to determine where the grease problems occurred, but the fact that the meter was not functioning properly was confirmed. The allegation that the County incorrectly reported a grease problem to the City of Pinellas Park is unsubstantiated.

24. Pinellas Park Officials Were Tired Of Being Used As A "Pawn" To Try To Close Reliable Down. *(See additional information in related Issue No. 23 relating to this subject.)*

UNFOUNDED: There is no support for the allegation that the City of Pinellas Park has problems with the County process/handling of the Reliable issues.

In a meeting with the City management, they denied the statement was made by their inspectors and there was no issue with the County's handling of the Reliable issues. Our review of the County department's Reliable documents found no statements by the City inspectors or City management that there was a problem with the County's handling of the Reliable issues, except that the odor problem is still present. The County documentation did note:

- The City of Pinellas Park Council was informed of the odor problems by a citizen addressing the Board of County Commissioners.
- The City's Public Works Foreman noted problems with the odor.
- Anonymous complaints were received by the City for horrible smells coming from the Reliable site; the complaints were referred to the County.
- The City Storm Water Department was asked to leave the Reliable site by the owners while on an inspection.
- The City Attorney requested Pinellas County to be diligent in monitoring the Site Plans and ensure that all odors are contained.

25. A Meeting In July 2013 With Reliable, The Pinellas County Attorney, And The County Administrator Admitted The County Made Mistakes. *(See additional information in related Issue Nos. 1, 3, 14, 15, and 16.)*

UNFOUNDED: The allegation that the County Attorney or the County Administrator admitted to any mistakes by the County is not supported.

When requested, the complainant did not provide the date of the meeting or any documentation on the items covered in the meeting. There was no documentation in the Reliable department files that the County Attorney or the County Administrator admitted to any mistakes. Additionally, there was no written meeting commitment for a meeting held in July 2013 among any of the parties. Interface between the County and Reliable Attorney has been part of the on-going process to resolve the violation issues.